

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

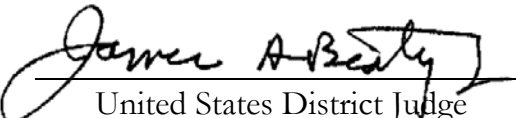
EVERETT MICHAEL BYERS,)	
)	
Petitioner,)	
)	1:12CV735
v.)	1:08CR129-1
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

On December 19, 2013, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. Petitioner and Respondent have stipulated that no objections to the Recommendation will be filed (see Joint Stipulation [Doc. #56]). Therefore, the Court need not make a *de novo* review and the Magistrate Judge's Recommendation [Doc. #54] is hereby adopted.

IT IS THEREFORE ORDERED that Petitioner's Motion to Vacate, Set Aside or Correct Sentence [Doc. #36] is GRANTED, that the Judgment [Doc. #20] is VACATED, and that Count Two of the Indictment [Doc. #1] is DISMISSED. The Clerk is directed to set this matter for resentencing as to Count Three. Petitioner remains in custody, and the United States Attorney is directed to produce Petitioner for the resentencing hearing. The Probation Office is directed to prepare a Supplement to the Presentence Investigation Report in advance of the hearing. Counsel will be appointed to represent Petitioner at the resentencing hearing.

This, the 2nd day of January, 2014.


United States District Judge